

SENATE BILL NO. 10

BY SENATOR MIZELL AND REPRESENTATIVES ADAMS, AMEDEE, BACALA, BAGLEY, BOURRIAQUE, BROWN, BRYANT, BUTLER, CARRIER, GARY CARTER, ROBBY CARTER, WILFORD CARTER, CORMIER, DESHOTEL, DEVILLIER, ECHOLS, EDMONDS, EDMONSTON, EMERSON, FARNUM, FIRMENT, FONTENOT, FREEMAN, FREIBERG, FRIEMAN, GADBERRY, GAINES, GAROFALO, GOUDEAU, GREEN, HARRIS, HODGES, HOLLIS, HORTON, MIKE JOHNSON, TRAVIS JOHNSON, JONES, JORDAN, KERNER, LACOMBE, LARVADAIN, LYONS, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, MIGUEZ, MINCEY, MOORE, NELSON, CHARLES OWEN, PIERRE, RISER, ROMERO, SCHAMERHORN, SCHEXNAYDER, SELDERS, STEFANSKI, THOMAS, THOMPSON, WHEAT, WHITE AND WRIGHT

1 AN ACT

2 To enact R.S. 12:430.1 and 430.2, relative to rural access to broadband high-speed internet  
3 access; to provide relative to servitudes; to provide for reporting by cooperatives  
4 regarding broadband high-speed internet access; to provide for reporting by certain  
5 telecommunications associations regarding broadband high-speed internet access;  
6 to provide for terms, conditions, and procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section. 1. R.S. 12:430.1 and 430.2 are hereby enacted to read as follows:

9 **§430.1. Cooperatives; provision of broadband services; servitudes**

10 **A.(1)(a) Except as provided in Subparagraphs (b) and (c) of this**  
11 **Paragraph, a cooperative shall grant permission to a broadband affiliate or a**  
12 **broadband service provider to use the electric delivery system of the**  
13 **cooperative to provide broadband services. The use of the cooperative's electric**  
14 **delivery system for the provision of broadband services by the broadband**  
15 **affiliate or a broadband service provider shall not be considered an additional**

1 burden on the property upon which the cooperative's electric delivery system  
2 is located and shall not require the broadband affiliate or broadband service  
3 provider to obtain the additional consent from anyone having an interest in the  
4 property upon which the cooperative's electric delivery system is located.

5 (b) The provisions of Subparagraph (a) of this Paragraph shall not  
6 apply to any property owned or controlled by a railroad company operating in  
7 the state.

8 (c) Notwithstanding any provision of law to the contrary, a cooperative  
9 providing electric service may deny a broadband affiliate or broadband service  
10 provider access to its poles, ducts, conduits, or rights-of-way, on a  
11 nondiscriminatory basis where there is insufficient capacity and for reasons of  
12 safety, reliability, and generally applicable engineering purposes.

13 (2)(a) If a portion of a cooperative's electric delivery system is used by  
14 a broadband affiliate or broadband service provider for the purpose of  
15 providing broadband services and the landowner of the property on which such  
16 portion is located believes his property has been damaged by such use, the  
17 landowner may petition the district court in which the property is situated for  
18 any damages to which the landowner may be entitled pursuant to law, subject  
19 to the provisions of Subparagraph (b) of this Paragraph.

20 (b) A cooperative or its members shall not be liable for any recoverable  
21 damages to property awarded by a court pursuant to the provisions of this  
22 Subsection, and the damages shall be the sole responsibility of the broadband  
23 affiliate or broadband service provider.

24 B. A cooperative shall provide a broadband affiliate, broadband service  
25 provider, or broadband operator with nondiscriminatory access to locate its  
26 equipment for the provision of broadband services on the cooperative's electric  
27 delivery system on just, reasonable, and nondiscriminatory terms, conditions,  
28 and rates.

29 C. Any broadband affiliate, broadband service provider, or broadband  
30 operator wishing to attach to a cooperative's electric delivery system shall file

1 written notice with the cooperative. The cooperative shall respond to the notice  
2 in accordance with the Public Service Commission's General Order dated  
3 September 4, 2014, or any subsequent related order.

4 D. A cooperative shall charge a broadband affiliate, broadband service  
5 provider, or broadband operator for the construction, installation, operation,  
6 use, and maintenance of those parts of its electric delivery system that are used  
7 or may be reserved for use by the broadband affiliate, broadband service  
8 provider, or broadband operator for the provision of broadband services. Any  
9 lease of facilities by a cooperative to a broadband affiliate that includes the use  
10 of the cooperative's poles shall include a pole attachment fee to be paid by the  
11 broadband affiliate to the cooperative. The fee charged by the cooperative to the  
12 broadband affiliate shall be the same amount as the pole attachment fee  
13 charged by the cooperative to any other broadband operator.

14 E. A cooperative shall not do any of the following:

15 (1) Use its electric energy sales revenue to subsidize the provision of  
16 broadband services to the public by a broadband affiliate or other broadband  
17 operator.

18 (2) Allow the installation or operation of a broadband system on its  
19 electric delivery system by a broadband affiliate or other broadband operator  
20 to diminish the reliability of the electric delivery system.

21 (3) Require any person to purchase broadband services from a  
22 broadband affiliate or other broadband operator, as a condition of receiving or  
23 continuing to receive electric energy from the cooperative.

24 (4) Disconnect, or threaten to disconnect, electric service to any  
25 customer due to the customer's failure to pay for broadband services provided  
26 to the customer by a broadband affiliate or other broadband operator.

27 F. A cooperative may make capital investments in a broadband affiliate,  
28 issue bonds on behalf of a broadband affiliate, make loans to a broadband  
29 affiliate at fair market rate, and enter into loan guarantees for the benefit of a  
30 broadband affiliate, all of which may be in such amounts and on such terms as

1 the cooperative determines to be prudent, subject to the requirements  
2 established by the Public Service Commission's General Orders dated March  
3 18, 1994, and November 13, 1996, or any subsequent related orders.

4 G. As used in this Section:

5 (1) "Broadband affiliate" means any entity that meets all of the following  
6 criteria:

7 (a) Is wholly or partially owned by a cooperative.

8 (b) Is formed to own or operate a broadband system or provide  
9 broadband high-speed internet services.

10 (2) "Broadband operator" means a broadband service provider that  
11 owns or operates a broadband system on a cooperative's electric delivery system  
12 with the cooperative's consent.

13 (3) "Broadband service provider" means an entity that provides  
14 broadband services to another on a wholesale basis or to an end-use customer  
15 on a retail basis.

16 (4) "Broadband services" means any service, using any equipment or  
17 technology, including wireline or fixed wireless broadband internet service, that  
18 consists of or includes the provision of or connectivity to a high-speed, high-  
19 capacity transmission medium meeting the Federal Communications  
20 Commission's benchmark of at least twenty-five megabits per second download  
21 and three megabits per second upload, or any subsequent benchmark  
22 determined by the Federal Communications Commission, that can carry signals  
23 from or to multiple sources and that does either of the following:

24 (a) Is used to provide access to the internet.

25 (b) Provides computer processing, information storage, information  
26 content or protocol conversion, including any service applications or  
27 information service provided over such high-speed access service. As used in  
28 this Part, "broadband services" shall also include video services, Voice over  
29 Internet Protocol services, wireless services, and internet protocol-enabled  
30 services.

1                   (5) "Broadband system" means a facility used to deliver broadband  
 2                   internet access service as defined in 47 C.F.R. §8.1 and other broadband  
 3                   services.

4                   (6) "Electric delivery system" means the poles, lines, materials,  
 5                   equipment, servitudes, and other facilities or properties used by a cooperative.

6                   §430.2. Reporting on broadband high-speed internet access

7                   On March 1, 2021, and every March thereafter, each cooperative, or the  
 8                   statewide or trade association of each cooperative, shall submit a written report  
 9                   to the Senate Committee on Commerce, Consumer Protection and International  
 10                  Affairs and the House Committee on Commerce regarding any impediments to  
 11                  providing broadband high-speed internet access to rural residents. The  
 12                  information in the report shall include, at a minimum, the number of  
 13                  broadband affiliates and broadband service providers who have requested to  
 14                  use a cooperative's electric delivery system and the number of broadband  
 15                  operators, including any broadband affiliate, who have accessed a cooperative's  
 16                  electric delivery system to deploy broadband to rural residents in the state.

17                  Section 2. On March 1, 2021, and every March thereafter, the Louisiana Cable  
 18                  & Telecommunications Association and the Louisiana Telecommunications Association  
 19                  shall jointly submit a written report to the Senate Committee on Commerce, Consumer  
 20                  Protection and International Affairs and the House Committee on Commerce  
 21                  regarding any impediments to providing broadband high-speed internet access or any  
 22                  prohibitive requirements to access the cooperative's electric delivery system for the  
 23                  purpose of providing broadband in the state. The information in the written report  
 24                  shall include, at a minimum, broadband deployment data publicly available from the  
 25                  Federal Communications Commission Form 477. Nothing in this Section shall be  
 26                  construed to require the disclosure of proprietary or trade secret information by a  
 27                  broadband service provider.

28                  Section 3. This Act shall become effective upon signature by the governor or, if not  
 29                  signed by the governor, upon expiration of the time for bills to become law without signature  
 30                  by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

---

PRESIDENT OF THE SENATE

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_